

MAR 5 1997

DEPT. OF INSURANCE
BY FDI

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In the Matter of:) Docket No. 96A-180-INS
)
WILLIAM CHO,) **ORDER**
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Respondent.)
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On February 21, 1997, the Office of Administrative Hearings, through Administrative Law Judge Lewis D. Kowal, submitted "Recommended Order Denying Rehearing and Review of Director's Order and Denying Stay" ("Recommended Order"), a copy of which is attached and incorporated by this reference. The Director of the Arizona Department of Insurance has reviewed the Recommended Order and enters the following order:

This matter presented the question of whether William Cho, who in 1996 admitted his violation of the federal laws that prohibit fraud in connection with the sales of securities, should continue to hold any insurance licenses. The Administrative Law Judge to whom this matter had been delegated determined that the offenses to which Mr. Cho had pled were subject to sanction under Title 20 and concluded that sanctions should be imposed against the licenses issued to Mr. Cho. The Director adopted these recommended findings in full without modification.

The Director, who had not delegated the authority to make the final decision in this matter, did not enter the sanctions suggested by the Administrative Law Judge. The Administrative Law Judge recommended that the Director fail to renew the property and casualty license held by Mr. Cho (which would have expired on October 31, 1996) and suspend the life and disability license held by Mr.

1 Cho for one year (which will expire on October 31, 1997). When considered together, these
2 recommended sanctions amounted to the virtual termination of the insurance agent licenses held by Mr.
3 Cho.

4 Had the recommendation been accepted to fail to renew the property and casualty license
5 held by Mr. Cho, Mr. Cho would have been left without the license necessary for him to act as an agent
6 in insurance transactions involving property and casualty insurance. Had the recommendation been
7 accepted to impose a one year suspension of the life and disability license held by Mr. Cho, Mr. Cho
8 would have been left with no ability to use the license necessary for him to act as an agent in insurance
9 transactions involving life and disability insurance for the balance of the term of this license. In sum, Mr.
10 Cho would not have been able to transact insurance as an agent during the remaining term of either
11 license. Exercising the discretion authorized by law, and reserved in the delegation to the Administrative
12 Law Judge, the Director's Order imposed the sanction of revocation against the licenses held by Mr. Cho,
13 a sanction of substantially identical effect to that proposed by the Administrative Law Judge. The
14 sanction of revocation entered against Mr. Cho constitutes a sanction permissible under the applicable
15 provisions of Title 20 and that is appropriate in light of the felony convictions entered against him
16 involving fraud. A.R.S. §§ 20-290(B)(2), 20-316(A)(1) and 20-316(A)(6). Fraud, to which Mr. Cho
17 pled guilty, constitutes an offense involving dishonesty or a breach of trust. The statutes cited above
18 represent the best measure of our legislature's judgment of the extent to which someone convicted of
19 fraud should be permitted to exercise the privileges associated with holding an insurance license.

20 Beyond these points, however, consideration must also be given to the provisions of
21 federal law governing the licensure of individuals convicted of crimes involving dishonesty or breach of
22 trust. Under applicable federal law, a person who has been convicted of an offense involving dishonesty
23 or a breach of trust may engage in the business of insurance only with the express consent of the

1 insurance regulatory official authorized to regulate the business of insurance. 18 U.S.C. §1033(e)(2).

2 The facts found by the Administrative Law Judge do not support the granting of express consent to Mr.
3 Cho to transact insurance as an agent. The recommended decision prepared by the Administrative Law
4 Judge effectively suggested that the consent required by this law be withheld; the virtual termination of
5 the licenses held by Mr. Cho signified that the consent was not warranted in this matter.

6 The Order challenged by Mr. Cho in his Request for Rehearing or Review did not reject or
7 modify the decision entered by the Administrative Law Judge for a number of reasons, including:

8 a. The order in this matter to revoke the licenses held by Mr. Cho did not disturb the
9 proposed findings of fact and conclusions of law that the Administrative Law Judge had been authorized
10 to enter.

11 b. The order in this matter to revoke the licenses held by Mr. Cho did not result in the
12 expansion or diminution of the authority of Mr. Cho to transact insurance as an agent under these licenses
13 when compared to the Administrative Law Judge's recommendation.

14 c. The Administrative Law Judge did not have the authority to exercise the discretion
15 of the Director in this matter, including the authority to choose the sanction to be entered by the Director
16 in this case.

17 d. As found the by the Administrative Law Judge in the Recommended Order,
18 "[a]lthough the Administrative Law Judge did not recommend the penalties and sanctions imposed by the
19 Director in his Order, the Director acted under his discretionary authority to determine those sanctions
20 and penalties."


1 For these reasons, the following order is entered:

- 2 1. The Application for Stay submitted by William Cho is denied.
- 3 2. The Motion for Rehearing or Review submitted by William Cho is denied.

4 NOTIFICATION OF RIGHTS

5 The final decision of the Director may be appealed to the Superior Court of Maricopa
6 County for judicial review pursuant to A.R.S. § 20-166. A party filing an appeal must notify the Office of
7 Administrative Hearings of the appeal within ten days after filing the complaint commencing the appeal,
8 pursuant to A.R.S. § 41-1092.10.

9 DATED this 5 day of March, 1997

10
11 
12 John A. Greene
13 Director of Insurance

14 A copy of the foregoing mailed
15 this 5th day of March, 1997

16 Charles R. Cohen, Deputy Director
17 John Gagne, Assistant Director
18 Maureen Catalioto, Supervisor
19 Arizona Department of Insurance
20 2910 N. 44th Street, Suite 210
21 Phoenix, AZ 85018

22 Office of Administrative Hearings
23 1700 West Washington, Suite 602
Phoenix, AZ 85007

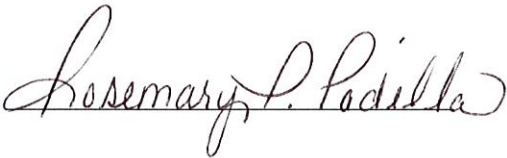
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1 Steven Henry
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Phoenix, Arizona 85018

3 William Cho
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5 William Cho
6 9303 N. 7th Street
Phoenix, AZ 85020

7 Allstate Property & Casualty
8 5343 N. 16th Street
Suite 300
9 Phoenix, AZ 85016

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF ARIZONA
RECEIVED

FEB 25 1997

In the Matter of:

No. 96A-180-INS

DIRECTOR'S OFFICE
INSURANCE DEPT.

WILLIAM CHO,

**RECOMMENDED ORDER
DENYING REHEARING AND
REVIEW OF DIRECTOR'S ORDER
AND DENYING STAY**

Respondent

On January 29, 1997, counsel for the Respondent filed a Motion for Rehearing or Review and Application for Stay. Subsequently, counsel for the Respondent filed a Request for Oral Argument on the Motion and Application. On February 14, 1997, counsel for the Arizona Department of Insurance filed a Response to the Motion and Objection to the Application.

The Administrative Law Judge has reviewed the above-mentioned documents and again reviewed the record of this matter and has determined that the Respondent has not raised sufficient grounds to support a rehearing or review of this matter by the Director of the Department. Although the Administrative Law Judge did not recommend the penalties and sanctions imposed by the Director in his Order, the Director acted under his discretionary authority to determine those sanctions and penalties. The Respondent has not presented sufficient grounds for a stay of the Director's Order.

Based on the above, the Administrative law Judge recommends that the

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Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85007
(602) 542-9826

1 Director deny Respondent's Motion for Rehearing or Review and deny the Application
2 for Stay.

3 Done this day, February 21, 1997.

4 Lewis D. Kowal

5 Lewis D. Kowal
6 Administrative Law Judge

7
8 *original*
9 ~~Copy~~ mailed this 24 day of
10 February, 199 , to:

11 John Greene
12 Director
13 ATTN: Curvey Burton
14 Department of Insurance
15 2910 North 44th Street, #210
16 Phoenix, AZ 85018-7256

17
18
19 By Chris Crawford